IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

Regular First Appeal No. 129 of 2001.

Date of Decision: 14th November, 2007.

Satya Devi and others ***…Appellants.***

Versus

Nathpa Jhakri Project Corporation and others
…Respondents.

Coram

The Hon'ble Mr. Justice Dev Darshan Sud,Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. G.D. Verma, Sr. Advocate, with Mr. Romesh Verma, Advocate.

For the Respondents: Mr. Ramakant Sharma, Advocate, for respondent Nos. 1&2.

Mr. M.S. Chandel, Advocate General, with Mr. Rajan Dewan, Addl. AG, for respondent No. 3.

Dev Darshan Sud, Judge.

The claimants have preferred this appeal against the judgment of the learned Reference Court rejecting their claim for grant of compensation for trees and built up structures standing on the acquired land.

The respondents herein had also preferred an appeal being R.F.A. No. 69/2001 titled S.J.V.N. Ltd. vs. Satya Devi

[1] Whether Reporters of Local Papers may be allowed to see the judgment?

disposed of on 30.8.2007 (arising out of the same notification and between the same parties) in which the matter had been compromised between the parties and it was agreed between the parties that so far as the claimants herein are concerned, they would not claim any enhancement in the value of the land. While disposing of the appeal, it was ordered:-

> "**Cross Appeal (RFA No. 129 of 2001**
>
> In the appeal filed by the claimants, the question regarding the adequacy of the compensation of the land will not be allowed to be raised in view of the compromise. List the Cross Appeal (RFA No. 129 of 2001) for hearing immediately after 15th September, 2007."

I have heard learned counsel for the parties and have gone through the record. On perusing the judgment of the learned Reference Court, I find that there are serious infirmities in the award. The learned Court has considered matters and relied upon the reference made by the reference court in the award which had already been set aside in appeal before this Court and the matter remanded. There is no clarity in reasoning as to why the compensation claimed by the claimants for trees and building should be disallowed despite their being evidence on the record The learned court does not consider the contentions raised or the evidence produced in support thereof.

This appeal is accordingly remanded to the District Judge, Rampur, who will decide the matter afresh considering the evidence, both oral and documentary on the record and will

determine afresh whether the claimants are entitled to the market value of the land and trees existing on the acquired land. Needless to observe, such compensation will be determined in accordance with the established principles of law. This appeal is accordingly allowed. Parties will appear before the learned District Judge on **3.12.2007**. The District Judge will give opportunity to the parties to lead such other relevant evidence as they may desire in support of their respective contention(s). Needless to say that the matter shall be disposed of by him with due expedition. There shall be no order as to costs.

14th November, 2007. **(Dev Darshan Sud),**
(cm) **Judge.**